

## REMARKS

The Examiner has objected to claims 47, 48 and 50, and rejected claims 47 and 48 under 35 U.S.C. §112, second paragraph, for informalities that are being overcome by the amendments to claims 47 and 48 and the cancellation of claim 50.

The Examiner has rejected claims 33, 34 and 43 under 35 U.S.C. §102(b) as anticipated by either Perfect U.S. Patent No. 4,085,845 (*Perfect*) or Georgakis U.S. Patent No. 4,898,276 (*Georgakis*). These claims are being canceled, thereby mooting the rejection.

The Examiner has rejected under 35 U.S.C. §103(a) as being unpatentable over *Georgakis*: claims 35 and 44 in view of what the Examiner considers as Applicants' admitted prior art, and claims 41 and 42 in view of Roberts U.S. Patent No. 622,396 (*Roberts*). Claims 36, 37, 40, 45 and 50-52 have been rejected further in view of Chester et al. U.S. Patent No. 5,350,059 (*Chester*), with claims 53-55 rejected still further in view of *Roberts*. These claims are also being canceled, thereby mooting these rejections.

In that all of the above rejections are based in part at least on the Examiner's stated observations that certain claim language relates to function or intended use, implying that it is therefore effectively being ignored or given less than full weight, Applicants are canceling these claims while expressly noting a reservation of the right to pursue these and other claims in a divisional or otherwise continuing application.

Allowable subject matter has been found in claim 49, which has been allowed, and in claims 38, 39, 46-48, which have been rewritten in independent form and to overcome rejections under 35 U.S.C. §112, second paragraph. Accordingly, claims 38, 39 and 46-49 are allowable.

New claims 56-66 have been added to replace the canceled claims. The new claims substitute structural recitations for language that the Examiner has observed to be functional or use related. These new claims overcome the art rejections. All of the new claims recite the presence of orthodontic brackets along with the orientations of their components in relation to specifically recited structure of the packages or of the organizer tray that is claimed. It is

submitted that these claims use language that avoids the problems that have shaped the prosecution to date.

New claim 56 is an amended version of allowed claim 49 in that it claims an orthodontic appliance package. It is more specific in the structure it recites that allow it to function in the overall system, with language removed that is not believed to have contributed to the allowability of claim 49. The Examiner previously cited *Chester* for disclosing an orthodontic appliance package. The claimed subject matter of new claims 56-58 differs from *Chester*'s disclosure in claimed structural details that allow Applicants' claimed package to function in the Applicants' system in a way that *Chester*'s package cannot. Applicants' claim 59 claims an embodiment of the system that includes the package of claim 56.

New claims 60-62, 65 and 66 also claim a system that recites orthodontic brackets and their positions and orientations in terms of the relation between specific structural details of the brackets and of the package or tray structure recited in the claims. For example, the oppositely oriented upper and lower brackets is not shown in combinations of the references. New claim 64 recites an organizer tray *per se* with specific recitation of details, such as the two rows of holders along the parallel edges, that the cited prior art does not disclose. It is submitted that these claims contain language that is entitled to be given weight, which distinguishes the claimed subject matter from the prior art, specifically *Perfect*, *Georgakis*, *Roberts* and the other art cited by Applicants.

It is submitted that the present claims are patentable over the prior art. Accordingly, an early allowance is respectfully requested.

Should the Examiner find that issues remain following consideration of this amendment, it is requested that the Examiner call the undersigned to resolve any issues to place the application in condition for allowance.

Application No. 10/781,138  
Amendment dated May 28, 2008  
Office Action Mailed December 28, 2007

Applicants submit that a two-month extension of time and a fee for three added independent claims are due with this Amendment. Payment of all charges due for this filing is made on the attached Electronic Fee Sheet. If any additional charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

BY /Joseph R. Jordan/  
Joseph R. Jordan, Reg. No. 25,686

2700 Carew Tower  
Cincinnati, OH 45202  
(513) 241-2324  
(513) 241-6234 (Facsimile)